

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 640**

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**Introduced by Assembly Member Huber**

February 25, 2009

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An act to add Section 1203.077 to the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 640, as amended, Huber. Sentencing: methamphetamine.

Existing law provides that any person convicted of the unlawful sale of cocaine or heroin who is eligible for and granted probation shall, as a condition of that probation, be confined in the county jail for at least 180 days, except as provided.

This bill would *also* provide that any person convicted of selling methamphetamine who is granted probation shall be confined in a county jail for at least ~~120~~ 180 days as a condition of probation, except as provided. By requiring confinement in county jail as a condition of probation, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1203.077 is added to the Penal Code, to  
2 read:

3     1203.077. Any person convicted of violating Section 11379  
4 of the Health and Safety Code, relating to the sale of  
5 methamphetamine, who is eligible for and granted probation, shall  
6 be confined in a county jail for at least ~~120~~ 180 days as a condition  
7 of probation. ~~That minimum sentence~~ *No less than that minimum*  
8 *period of incarceration* shall be imposed in every case unless the  
9 court finds that it is in the interest of justice not to impose that  
10 sentence, and states on the record the circumstances indicating  
11 why justice would be served by not imposing that minimum jail  
12 sentence.

13     SEC. 2. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 the only costs that may be incurred by a local agency or school  
16 district will be incurred because this act creates a new crime or  
17 infraction, eliminates a crime or infraction, or changes the penalty  
18 for a crime or infraction, within the meaning of Section 17556 of  
19 the Government Code, or changes the definition of a crime within  
20 the meaning of Section 6 of Article XIII B of the California  
21 Constitution.